

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office
FLOOR DEBATE

April 18, 2001 LB 659

individual in the future if public authority is otherwise going to dispose of it. And we establish a procedure to be followed after results from DNA testing are received. The committee amendments specify that the type or what types of DNA testing will be included and we utilize all of the technical terminology that is appropriate to make the...to establish those procedures which have been demonstrated scientifically and from an evidentiary standpoint to be reliable. As written, LB 659 does not specify when an indigent person would be appointed counsel. The amendment provides that, upon a showing that DNA testing may be relevant to a wrongful conviction claim, then the court shall appoint for an indigent person an opportunity...counsel in order to pursue that remedy. The amendments further explain that the person filing the motion will pay for the DNA testing except in those instances where the court has determined that the subject individual is indigent, in which case then there will be...the costs will be paid by the state and the court will determine and approve of the testing process. LB 659 provides a process for securing and disposing of the biological material in connection with criminal cases. We deemed amendments necessary because it is...it's obvious that someone...we have to preserve the chain of custody and control with regard to this evidence. If the required party receives notice that biological material in connection with his or her case is to be disposed of and notice is required that, instead of filing a motion to test the material if the individual may not want to do that at that particular point in time, the party may request in writing the opportunity to take possession of that biological material and obviously, with the guidance of counsel, then chain of custody and control would be attended to. The costs of acquiring, preserving and storing the material would be at the expense of the person requesting possession, except for the "indigency" showing that I mentioned earlier. The committee amendments modify the procedural process in dealing with the results of the ordered DNA testing. The results are to be disclosed specifically to the person filing the motion, to that person's attorney, and to the county attorney relative to the prosecution. Any party, any party may then request a hearing before the court when such results exonerate or exculpate the individual. Following the hearing, the court may vacate, set aside the conviction, and release the person from custody based